

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

In Re:

Case No. 04-32118

Rebecca S. Zylstra

Debtor(s).

NOTICE OF HEARING AND MOTION OBJECTING TO EXEMPTION

TO: The Debtor, his/her attorney, Trustee and other parties in interest specified in Local Rule 9013-3:

1. Mary Jo A. Jensen-Carter, Trustee of the bankruptcy estate of the above-named Debtor(s) ("Trustee"), moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion on **September 22, 2004 at 10:15 a.m.**, before the Honorable Dennis D. O'Brien, Judge of the U.S. Bankruptcy Court, in Courtroom Number 228A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.
3. Any response to this motion must be filed and delivered not later than September 17, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail no later than September 13, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **IF A RESPONSE IS NOT TIMELY FILED, THE COURT, IN ITS DISCRETION, MAY GRANT THE**

RELIEF REQUESTED WITHOUT A HEARING.

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. The petition commencing this case was filed under Chapter 7 on June 16, 2004. This case is now pending in this Court.
5. This motion arises under 11 U.S.C. § 522 and Minn. Stat. § 510.01 and 510.02. This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, 9013-3 and 9013. The debtor has claimed real property located at 29338 Cordell Court, Randolph, Dakota County, Minnesota, legally described on the attached Exhibit A, as her exempt homestead pursuant to Minn. Stat. §510.01. However, Minn. Stat. § 510.02 provides that a homestead that is within the laid out or platted portion of a city, its area must not exceed one-half acre.
6. Based upon the Dakota County property tax records, the debtor's homestead is in a platted portion of the City of Randolph and its area consists of .66 acres. Therefore, the area of the debtor's homestead exceeds the limitation of Minn. Stat. §510.02. See attached Exhibit B. Accordingly, Trustee objects to the exemption.

WHEREFORE, Trustee prays for an order of the Court denying debtor's exemption as set forth herein and granting such other and further relief as the Court deems just and equitable.

Dated: August 13, 2004.

BUCKLEY & JENSEN

By /e/ Mary Jo A. Jensen-Carter
Mary Jo A. Jensen-Carter, #186041
1339 East County Road D
Vadnais Heights, MN 55109
(651) 486-7475

VERIFICATION

I, Mary Jo A. Jensen-Carter, Trustee and movant named in the motion, declare under penalty of perjury that the facts contained in the foregoing motion are true and correct to the best of my knowledge, information and belief.

Dated: August 13, 2004.

/s/ Mary Jo A. Jensen-Carter
Mary Jo A. Jensen-Carter, Trustee

Lot 5, Block 1, Tolmie Addition except the following: Beginning at the southeast corner of said Lot 5; thence North 89 degrees 32 minutes 00 seconds West along the south line of said Lot 5, a distance of 125.00 feet to the east line of Cordell Court; thence northerly 15.05 feet along said east line of Cordell Court, and a non-tangential curve concave to the west, central angle of 14 degrees 22 minutes 27 seconds, radius of 60.00 feet, and a chord which bears North 06 degrees 43 minutes 12 seconds West; thence North 83 degrees 57 minutes 29 seconds East 81.63 feet; thence North 80 degrees 30 minutes 37 seconds East 40.11 feet to an angle point on the east line of said Lot 5, thence South 89 degrees 37 minutes 31 seconds East along a north line of said Lot 5, a distance of 5.41 feet; thence South 01 degree 08 minutes 10 seconds East along said east line of Lot 5, a distance of 31.10 feet to the point of beginning.

Exhibit A

SITE MAP

PROPERTY ID NUMBER: 32-82100-051-01

FEE OWNER: REBECCA S ZYLSTRA
29338 CORDELL CT
RANDOLPH MN 55065-7517

PROPERTY ADDRESS: 29338 CORDELL CT
RANDOLPH MN 55065

PAYABLE 2004 TAXES

NET TAX: 1,361.34
SPECIAL ASSESSMENTS: 0.00
TOTAL TAX & SA: 1,361.34

PAYABLE 2005 ASMT USAGE: RESIDENTIAL

2004 ESTIMATED MARKET VALUES (PAYABLE 2005)

LAND: 45,900
BUILDING: 146,200
TOTAL: 192,100

LOT SIZE (EXCLUDES
ROAD EASEMENTS)
28,900 SQ FT
0.66 ACRES

SCHOOL DISTRICT: 195

LOCATION: SW1/4 NE1/4 SECTION 07-112-18

PAYABLE 2005 HOMESTEAD STATUS: FULL HOMESTEAD

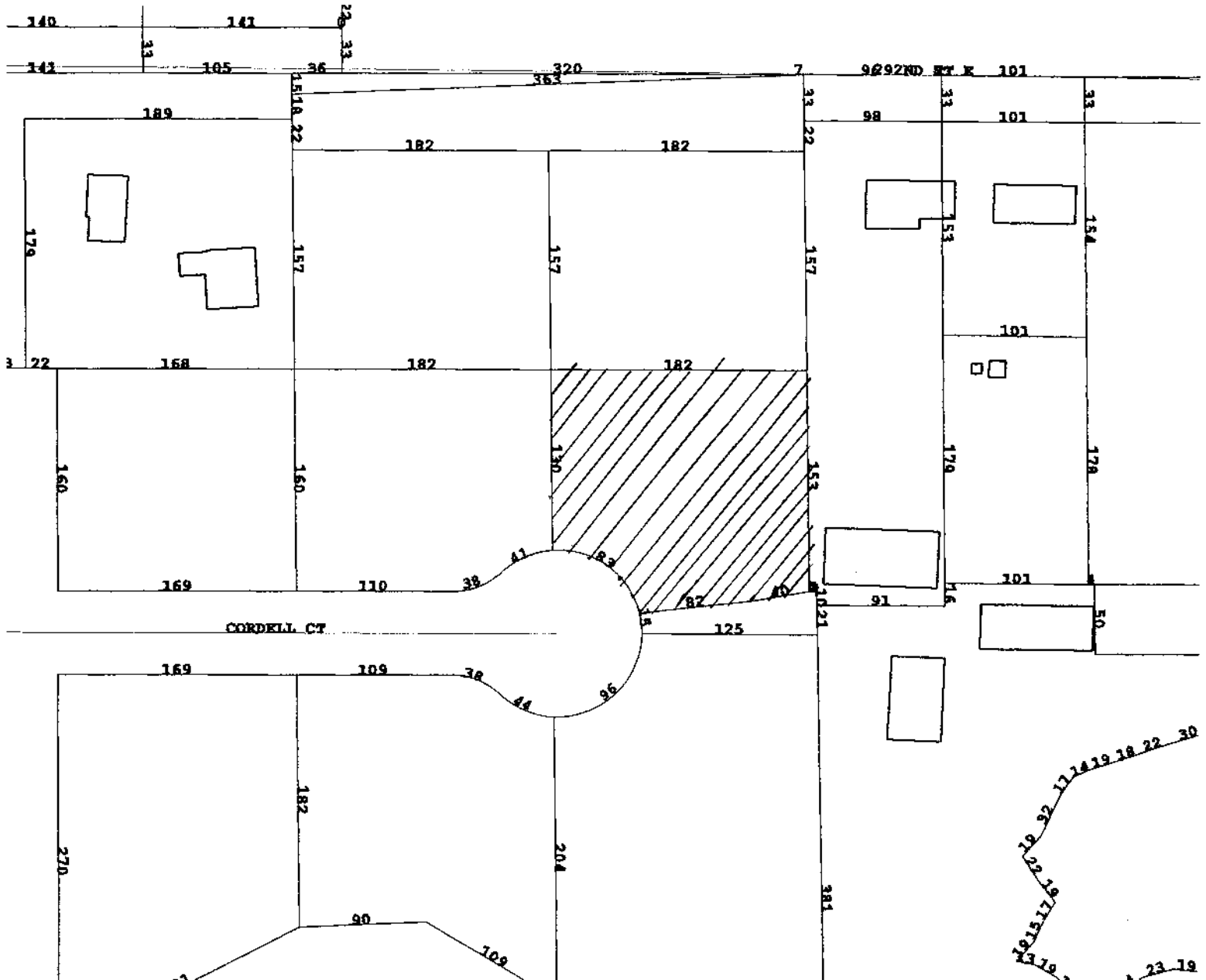
WATERSHED DISTRICT: NORTH CANNON RIVER

LAST QUALIFIED SALE:

DATE: AMOUNT:

2004 BUILDING INFORMATION (PAYABLE 2005):

TYPE: S.FAM.RES
YEAR BUILT: 1998
ARCH/STYLE: SPLIT LEVL
FOUNDATION SQ FT: 1227
FINISHED SQ FT: 1725
BEDROOMS: 3
BATHS: 1
FRAME: WOOD
GARAGE SQ FT: 696
OTHER GARAGE: MISC BLDG



NOTE: Dimensions rounded to nearest foot.

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This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information and data located in various city, county, and state offices and other sources, affecting the area shown, and is to be used for reference purposes only. Dakota County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact Dakota County Survey and Land Information Department.

Map Date: August 2, 2004

Parcels Updated: 7/29/04

Aerial Photography: 1992

PLAT NAME:

TAX DESCRIPTION:

TOLMIE ADDITION
LOT 5 BLK 1 EX BEG SE COR W
125 FT TO E LINE CORDELL CT
NLY 15.05 FT ON E LINE N
83D57M29S E 81.63 FT N 80D
30M37S E 40.11 FT E 5.41 FT
S ON E LINE 31.10 FT TO BEG

5 1



Exhibit B

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

In Re:

Case No. 04-32118

Rebecca S. Zylstra,

Debtor(s)

UNSWORN CERTIFICATE OF SERVICE

I, Ann M. Gagner, declare under penalty of perjury that on August 13, 2004, I served copies of the attached *Notice of Hearing and Motion Objecting to Exemption and a proposed Order* by first class U.S. Mail, to the following parties:

Rebecca S. Zylstra 29338 Cordell Court Randolph, MN 55065	United States Trustee 1015 U.S. Courthouse 300 South Fourth Street Minneapolis, MN 55415
Ian Traquair Ball 12 South 6 th Street Suite 326 Minneapolis, MN 55402	

Executed on: August 13, 2004.

Signed: /e/ Ann M. Gagner
Ann M. Gagner
Buckley & Jensen
1339 East County Road D
Vadnais Heights, MN 55109

**UNITED STATES BANKRUPTCY COURT
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ORDER

The above-captioned matter came on before this Court on the motion of the Trustee, Mary Jo A. Jensen-Carter, objecting to the debtor's exemptions. Appearances, if any, are noted in the Court's record.

Based upon all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Trustee's Motion Objecting to Exemption is granted; and
2. The real property located at 29338 Cordell Court, Randolph, Dakota County, Minnesota, legally described on the attached Exhibit A is hereby deemed property of the bankruptcy estate to the extent that the acreage of the property exceeds one-half acre, and the Trustee shall administer the same pursuant to the provisions of the Bankruptcy Code.

Dated: _____, 2004.

BY THE COURT

Dennis D. O'Brien
Judge, United States Bankruptcy Court

Lot 5, Block 1, Tolmie Addition except the following: Beginning at the southeast corner of said Lot 5; thence North 89 degrees 32 minutes 00 seconds West along the south line of said Lot 5, a distance of 125.00 feet to the east line of Cordell Court; thence northerly 15.05 feet along said east line of Cordell Court, and a non-tangential curve concave to the west, central angle of 14 degrees 22 minutes 27 seconds, radius of 60.00 feet, and a chord which bears North 06 degrees 43 minutes 12 seconds West; thence North 83 degrees 57 minutes 29 seconds East 81.63 feet; thence North 80 degrees 30 minutes 37 seconds East 40.11 feet to an angle point on the east line of said Lot 5, thence South 89 degrees 37 minutes 31 seconds East along a north line of said Lot 5, a distance of 5.41 feet; thence South 01 degree 08 minutes 10 seconds East along said east line of Lot 5, a distance of 31.10 feet to the point of beginning.

Exhibit A